

Proposed Changes to 246-215 WAC, Food Service

This list only includes proposed additions and modifications to 246-215 WAC, Food Service. It does not include items removed from the proposal, such as the date marking provisions in Chapter 3 of the FDA Food Code. It also does not include minor corrections to typographical errors.

Overall

1. Change to Washington Administrative Code (WAC) format
 - a. Chapters would become “parts”
 - b. FDA references will be in parentheses after each section title
 - If there isn’t a FDA reference it’s because that section does not exist in the Food Code
2. Defined terms will be in small caps in the adopted version
3. Replaces “criteria” with “requirements” throughout rule to meet WAC convention
4. When possible, removes prefixes from definitions
 - a. E.g. “unPACKAGED” changes to “food that is not PACKAGED”

Part 1 – Intent, Scope, and Definitions

1. Adds a statement on the scope of the rule and an applicability section
2. Keeps numbers for definitions, even though they are no longer used in the FDA Food Code
3. Adds “**Asymptomatic**” (2005 FDA Food Code)
4. Adds “**Balut**” (2005 FDA Food Code)
5. Deletes “**Casing**” because its only use was in 3-501.17, which is not being adopted
6. Modifies “**Catering Operation**” (Core Workgroup, DOH, and Attorney General)
7. Replaces “**Code of Federal Regulations**” with “**C.F.R.**” and modifies the definition (2005 Food Code)
8. Adds “**Conditional Employee**” (2005 Food Code)
9. Deletes “**Core item**” as this term isn’t used on the WA inspection report form (Core Workgroup)
10. Removes “material” from “**Corrosion-resistant material**” to make it fit the context of its use (DOH)
11. Replaces defined term “Table-mounted equipment” with “**Counter-mounted equipment**” (2005 Food Code)
12. Deletes “**Critical item**” as this term isn’t used on the WA inspection report form (Core Workgroup)
13. Adds and modifies “**Cut leafy greens**” (2009 Food Code and Core Workgroup)
14. Adds the new term “**Dealer**” (2007 Supplement)
15. Adds definitions for the terms “**disclosure**” and “**reminder**” (CFP Issue 2002-II-20)
16. Removes “area” from “**Dry storage area**” to make it fit the context of its use (DOH)
17. Amends “**Egg**” to clarify difference between “egg” (shell egg) and “egg product”, which was referred to as liquid, frozen, or dry egg in 2001 code (2005 Food Code)
18. Adds “**Egg Product**” to clarify the difference between “egg” (shell egg) and “egg product” (liquid, frozen, or dry egg) (2005 Food Code)
19. Amends “**Employee**” by adding “**food employee**” (2005 Food Code)
20. Adds “**Enterohemorrhagic Escherichia coli**” (2005 Food Code)
21. Amends “**Exclude**” to clarify that an excluded person may not enter a food establishment as an employee (2005 Food Code)
22. Deletes “**Food code**” because it isn’t necessary (DOH)
23. Modifies “**Food establishment**”
 - a) Adds fresh herbs to (c)(ii) (Core Workgroup)
 - b) Adds cottage food operation to (c)(iii) (DOH)
 - c) Adds (c)(x) regarding hotels without food service but ice machines for guests (Core Workgroup)
24. Amends “**Food Processing Plant**”
 - a) Deletes the cross reference in subparagraph (b) (2005 Food Code)
 - b) Adds clarifying language (2009 FDA Food Code)
25. Adds “**Grill Marked**” (Core Workgroup)

26. Adds "**Handwashing Sink**" (2005 Food Code)
27. Adds "**Health Practitioner**" (2005 Food Code)
28. Clarifies the language of "**Highly Susceptible Population**" (DOH)
29. Modifies "**Imminent Health Hazard**" to eliminate redundancy with Part 8 (Core Workgroup)
30. Amends "**Injected**" to remove the public health statement and process where no liquid is introduced (2009 Food Code)
31. Amends "**Juice**" to clarify that "juice" does not include liquids, purées, or concentrates that are not used as beverages or ingredients of beverages (2005 Food Code)
32. Adds "**Major Food Allergen**" (2005 Food Code)
33. Adds "**Mechanically Tenderized**" (2008-III-02)
34. Adds "**Non-continuous cooking**" (2009 Food Code)
35. Adds language to "**Packaged**" to address labeling issues at schools (DOH)
36. Adds "**Pooling**" (Core Workgroup)
37. Amends "**Potentially Hazardous Food**" by:
 - a) including tables on the interaction of pH and water activity (2005 FDA Food Code)
 - b) adding, "cut tomatoes" (2009 FDA Food Code)
 - c) adding "cut leafy greens" (2009 FDA Food Code)
38. Adds "**Pre-school**"
39. Adds "**Ratites**" (2005 Food Code)
40. Adds "**Red High Risk Factors**" (Core Workgroup)
41. Amends "**Reduced Oxygen Packaging**" to address cook/chill and sous vide (2005 FDA Food Code)
42. Adds "**Reminder**" (2005 Food Code)
43. Adds "**Re-Service**" (2005 Food Code)
44. Modifies "**Service Animal**" to match the definition in RCW 49.60.218 (DOH)
45. Adds examples to "**Shiga toxin-producing E. coli**" (2005 Food Code)

Part 2 - Management and Personnel

1. **WAC 246-215-02100** Gives alternative that allows a single PIC to be responsible for multiple permitted food establishments co-located on a single food establishment premises, under certain conditions (2007 Supplement to the 2005 FDA Food Code)
2. **WAC 246-215-02105**
 - a) Clarifies what is meant by "complying with this Code" with respect to demonstration of knowledge (2005 FDA Food Code)
 - b) Adds requirement to know major food allergens (2005 FDA Food Code)
 - c) Adds requirement to know reporting responsibilities (2005 FDA Food Code)
3. **WAC 246-215-02110** Adds to recognize National Manager Certification (2005 FDA Food Code)
4. **WAC 246-215-02115**
 - a) Adds "food allergy awareness" as a part of the food safety training of employees by the Person in Charge (2009 Food Code)
 - b) Adds new paragraph regarding reporting responsibilities (2005 Food Code)
5. **WAC 246-215-02200 through 02255**
 - a) Food employees would only have to report to the person in charge when diagnosed with *Salmonella* Typhi. (Core Workgroup)
 - b) Food employees who work in a facility serving a highly susceptible population would have to report to the person in charge when diagnosed with any species of *Salmonella* or if diagnosed with Norovirus (Core Workgroup and FDA Food Code)
 - c) Adds requirements the person in charge must use before allowing a restricted or excluded food employee to return to work (FDA Food Code)
 - d) Adds rules for conditional employees (2009 FDA Food Code)

- e) Would require the person in charge to get local health officer approval to allow a food employee to return to work after being excluded for jaundice (Core Workgroup)
- f) Would require the person in charge to exclude food employees who have a sore throat and fever and would allow them to return to work when they no longer have a sore throat and fever. (FDA Food Code and Core Workgroup)
- 6. **WAC 246-215-02305** Modifies the handwashing procedure and allows food employees to touch faucet and door handles to avoid recontamination of the hands after handwashing. (2005 Food Code)
- 7. **WAC 246-215-02310** Allows food employees to not wash hands when changing gloves if the glove change isn't a result of hand contamination. (Core Workgroup)
- 8. **WAC 246-215-02320** Replaces the terms "hand sanitizer" with "hand antiseptic." (2005 Food Code) and revises the requirements for hand sanitizers to more accurately and concisely identify current federal food additive regulations that relate to hand sanitizer formulations (2003 Supplement).
- 9. **WAC 246-215-02330** Clarifies the jewelry prohibition for food employees. (Core Workgroup)
- 10. **WAC 246-215-02410** Clarifies the hair restraint requirements for food employees. (Core Workgroup)

Part 3 – Food

- 1. **WAC 246-215-03225** Adopts wild mushroom requirements. (FDA Food Code and Core Workgroup)
- 2. **WAC 246-215-03265** Adds "best if used by" (2009 FDA Food Code)
- 3. **WAC 246-215-03285** Adds requirements for shucked shellfish that is removed from the original container and repackaged in consumer self service containers (2005 FDA Food Code)
- 4. **WAC 246-215-03290** Requires the date that a shellfish container is emptied to be written on the tag, defines record keeping requirements, and deletes language to eliminate redundancy with the term "commingling." (DOH and 2009 FDA Food Code)
- 5. **WAC 246-215-03300** Provides the requirements that must be met for approval of an alternative procedure to No Bare Hand Contact with ready-to-eat foods, requires prior approval from regulatory authority, and prohibits bare hand contact with ready-to-eat food by food employees in food establishments serving highly susceptible populations (2005 Food Code)
- 6. **WAC 246-215-03306** Allows frozen, commercially processed and packaged raw animal foods to be stored or displayed with ready-to-eat food (2009 Food Code)
- 7. **WAC 246-215-03318** Clarifies the requirements for washing produce and requires sprouts to be washed (Core Workgroup)
- 8. **WAC 246-215-03321** Changes the egg pooling requirements (Core Workgroup)
- 9. **WAC 246-215-03330** Specifies that single-service and single-use articles can be used to contact food (2005 Food Code)
- 10. **WAC 246-215-03339** Clarifies the use of wiping cloths and does not require dry wiping cloths to be stored in sanitizing solution (2005 Food Code)
- 11. **WAC 246-215-03348** Allows single service cups to be refilled with non-potentially hazardous beverages (Core Workgroup)
- 12. **WAC 246-215-03363** Allows bags of hard crusted bread for self-service to be open at one end (Core Workgroup)
- 13. **WAC 246-215-03400**
 - a) Adds "mechanically tenderized" meats to the foods that shall be cooked to 155°F (2009 Food Code)
 - b) Clarifies that lamb and other meat roasts are included (2005 Food Code)
 - c) Prohibits raw animal food from being offered from a children's menu or children's section of any menu (Core Workgroup)
- 14. **WAC 246-215-03415** Adds a new section on non-continuous cooking of raw animal foods (2009 Food Code) and provides exceptions for foods that are grill marked (Core Workgroup)
- 15. **WAC 246-215-03420** Prohibits all unattended cooking without continuous temperature monitoring, not just that done overnight (Core Workgroup)

16. **WAC 246-215-03425** Adds third option for freezing to control parasites and adds exemptions for certain fish that are aquacultured (2005 Food Code) and fish eggs that have been removed from the skin and rinsed from freezing for parasite destruction (2009 Food Code)
17. **WAC 246-215-03430** Adds provision for record keeping for certain aquacultured fish that are exempted from freezing (2005 Food Code)
18. **WAC 246-215-03520** Clarifies the requirement to keep cooling food uncovered (Core Workgroup)
19. **WAC 246-215-03525**
 - a) Revises the hot holding temperature requirement for potentially hazardous foods from 140°F to 135°F. Temperatures for receiving hot food, storing in-use utensils, reheating, and cooling would be adjusted as a result. (2005 FDA Food Code)
 - b) Adds an allowance for holding potentially hazardous food in specially designed dispensing equipment that maintains the safety of aseptically-packaged fluid foods when the equipment is manufactured and operated in conformance with the NSF/ANSI Standard No. 18 (2009 FDA Food Code).
20. **WAC 246-215-03530** Allows ready-to-eat food held using time only as the public health control to be served at any temperature upon a consumer's request (2009 FDA Food Code)
21. **WAC 246-215-03535**
 - a) Includes *Listeria monocytogenes* controls. (2009 Food Code)
 - b) Amends the list of items requiring a variance and HACCP plan to include sprouting beans or seeds in a food establishment (2005 FDA Food Code)
22. **WAC 246-215-3540**
 - a) Amends provisions for ROP to address growth of *Listeria monocytogenes* and adds cook/chill, sous vide, and ROP cheese (2005 FDA Food Code)
 - b) Clarifies that raw vegetables have high levels of competing organisms (2009 Food Code)
 - c) Adds the language "except the time the product is maintained frozen" (2005 FDA Food Code)
23. **WAC 246-215-03610** Adds labeling requirements for major food allergens as specified in the Food Allergen Labeling and Consumer Protection Act (2005 Food Code)
24. **WAC 246-215-03620**
 - a) Deletes "milk" and "juice" so these no longer need a consumer advisory (Core Workgroup)
 - b) Requires a disclosure and reminder for satisfactory compliance with the consumer advisory provision (2005 FDA Food Code)
25. **WAC 246-215-03800** Adds new provision regarding re-service of food (2005 FDA Food Code)

Part 4 – Equipment, Utensils, and Linens

1. **WAC 246-215-04110** Combines lead, pewter, solder and flux restrictions into one section (2005 Food Code)
2. **WAC 246-215-04224** Modifies the acceptable range of a fresh hot water sanitizing rinse pressure measuring device (2009 FDA Food Code)
3. **WAC 246-215-04230** Adds requirements for equipment that dispenses potentially hazardous food in a homogenous liquid form (2009 FDA Food Code)
4. **WAC 246-215-04258** Removes the words, "designed and" from the introductory phrase to clarify that the warewashing machine's features prescribed in this section are not necessarily integrated into the machine design by the manufacturer and instead may be added at the time of installation (2005 Food Code)
5. **WAC 246-215-04305** Allows a food establishment to use an approved alternate warewashing method different than those listed if it's approved (DOH)
6. **WAC 246-215-04560** Revises the text regarding the acceptable range of the flow pressure of the fresh hot water sanitizing rinse (2009 FDA Food Code)
7. **WAC 246-215-04565** Amends lead-in paragraph to change "exposure times" to "contact times" and "manufacturer's label use instruction or directions" to "EPA-registered label use instructions" to harmonize with EPA terminology (2009 FDA Food Code)

8. **WAC 246-215-04565** Adds chlorine concentration ranges and changes “Minimum Concentration” to “Concentration Range” in the chart. (CFP 2008-III-010)
 - a) Changes the minimum temperature requirement for an iodine solution from “24°C (75°F)” to “20°C (68°F)” to be consistent with EPA iodophor registration protocols (CFP 2008-III-010)
 - b) Changes “manufacturer’s label” to “EPA-registered label use instructions” to harmonize with EPA terminology (CFP 2008-III-010)
 - c) Changes “manufacturer’s directions including the labeling” to “EPA registered label use instructions” to harmonize with EPA terminology (CFP 2008-III-010)
9. **WAC 246-215-04710** Changes “exposure time” to “contact time” to harmonize with EPA terminology in (C)(1)(2)(3) and (4) (CFP 2008-III-010); Adds sentence to clarify that contact times shall be consistent with EPA-registered labels and to harmonize with EPA terminology (2009 Food Code)
10. **WAC 246-215-04815** Prohibits the washing of wiping cloths in food preparation sinks (Core Workgroup)
11. **WAC 246-215-04940** Revises the text regarding preset tableware to clarify under what circumstances preset tableware may be exposed and not protected from contamination by wrapping, covering, or inverting (2009 Food Code)
12. **WAC 246-215-04945** Prohibits equipment and utensils from being rinsed after sanitizing and provides conditions for exceptions to this (2009 FDA Food Code)

Part 5 – Water, Plumbing, and Waste

1. **Throughout Part 5** Changes “handwashing facility” and “lavatory” to new term “handwashing sink” (2005 Food Code)
2. **WAC 246-215-05100** Requires drinking water to be from a public water system (Core Workgroup)
3. **WAC 246-215-05120** Allows nondrinking water to be used to irrigate nonfood landscape foliage (Core Workgroup)
4. **WAC 246-215-05210** Adds handwashing allowances for food employees offering food samples (Core Workgroup)
5. **WAC 246-215-05240** Addresses use limitations for toilets and urinals (2009 Food Code)
6. **WAC 246-215-05250** Changes “double” check valve to “dual” check valve (2009 Food Code)
7. **WAC 246-215-05255** Requires handwashing sinks to be within 25 feet of food preparation, food dispensing, and warewashing areas (Core Workgroup)
8. **WAC 246-215-05410** Clarifies that floor drains are allowed in walk-in refrigerators (CFP 2004-I-026)

Part 6 – Physical Facilities

1. **WAC 246-215-06285** Re-incorporates the requirement for outdoor refuse areas to the constructed according to law but with less specificity than the FDA Food Code (Core Workgroup)
2. **WAC 246-215-06310** Allows the use of a high velocity blade of non-heated, pressurized air for hand drying (2009 Food Code)
3. **WAC 246-215-06550** Amends so that establishments are required to be free of *infestations* of pests as opposed to prohibiting the presence of as few as one pest (Core Workgroup)

Part 7 – Poisonous or Toxic Materials

1. **WAC 246-215-07225** Adds a new ¶(B) that allows the use of ozone on fruits and vegetables according to 21 CFR 173.368 (2009 Food Code)

Part 8 – Compliance and Enforcement

1. **WAC 246-215-08200** Adds the requirement that food establishments must submit plans if they make significant changes to the methods of food preparation or style of service (2009 Food Code)
2. **WAC 246-215-08305** Modifies so none of the food on the list is PHF, adds clarifying language, and removes caramel apples and fried pork skins (Core Workgroup)
3. **WAC 246-215-08410** Adds new paragraph to address competency of inspectors (CFP Issue 2002-II-14)

4. **WAC 246-215-08455** Modifies to eliminate redundancy with the definition of “Imminent Health Hazard” (Core Workgroup)
5. **WAC 246-215-08515** Moves the conditions the regulatory authority uses to reinstate food employees after they’re restricted or excluded to 246-215-02245, 02250, and 02255 (2005 Food Code)

Part 9 - Alternative Food Facilities (all changes in Part 9 were made by DOH or the Core Workgroup)

1. **WAC 246-215-09140** and **WAC 246-215-09150** Removes specific handwashing sink requirements and, instead, refers to the handwashing sink requirements in WAC 246-215-05210
2. **No reference (was 9-111.11 in the Working Document)** Deletes the section to fix redundancy with WAC 246-215-09105
3. **WAC 246-215-09300** Eliminates several exemptions and clarifies that PHF made in permitted food establishments does not have to be served within eight hours of preparation
4. **WAC 246-215-09415** Adds two categories of food that donated food distributing organizations are allowed to receive
5. **WAC 246-215-09420** Specifies that food must be received at temperatures that meet the receiving temperatures in Part 3
6. **Subpart E** –Reduces the requirements for pre-schools that limit their food preparation steps